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8 **UNITED STATES DISTRICT COURT**
9 **EASTERN DISTRICT OF CALIFORNIA**
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11 BARRY LOUIS LAMON,) Case No.: 1:20-cv-00896-AWI-SAB (PC)
12 Plaintiff,)
13 v.) ORDER ADOPTING FINDINGS AND
14 C. PFEIFFER, et.al.,) RECOMMENDATION, GRANTING
15 Defendants.) DEFENDANTS' MOTION TO REVOKE
16) PLAINTIFF'S *IN FORMA PAUPERIS* STATUS,
17) AND DENYING PLAINTIFF'S MOTION TO
) VOLUNTARILY DISMISS THIS ACTION
) (Doc. Nos. 39, 50, 53)
)

18 Plaintiff Barry Louis Lamon is appearing *pro se* and *in forma pauperis* in this civil rights action
19 pursuant to 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to
20 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

21 On August 13, 2021, the assigned magistrate judge issued findings and recommendations,
22 recommending that Defendants' motion to revoke Plaintiff's *in forma pauperis* status be granted, and
23 Plaintiff be directed to pay the \$400.00 filing fee for this action. (Doc. No. 50.) The Findings and
24 Recommendations were served on the parties and contained notice that objections were due within
25 twenty-one days. (*Id.*) No objections have been filed and the time to do so has now passed.

26 However, on August 23, 2021, Plaintiff filed a motion to voluntarily dismiss the action. (Doc.
27 No. 53.) Plaintiff stated, "I am going to voluntarily dismiss this case in this court, and pursue it and
28 other related claims, continuing interference and retaliation against me by CDC personnel, in the state

1 courts.” (Doc. No. 53 at 2.) Plaintiff requests that Court dismiss the case, and vacate his earlier
2 requests for the Court to take the funds directly from his prison trust account. (Id.) Because it was
3 unclear whether Plaintiff wished to dismiss this action, notwithstanding the requirement that he
4 continue to pay the filing fee for this action, on August 24, 2021, the Court granted Plaintiff twenty-
5 one days to file a supplemental motion to voluntarily dismiss the action, if so desired. (Doc. No. 54.)
6 The Court advised Plaintiff that the failure to file a supplemental motion would result in a
7 recommendation to deny Plaintiff’s motion to voluntary dismiss the action. (Id.) Plaintiff has not
8 responded to the Court’s August 24, 2021 order and the time to do so has now passed.

9 In accordance with the provisions of 28 U.S.C. § 636 (b)(1)(B) and Local Rule 304, this court
10 has conducted a *de novo* review of this case. Having carefully reviewed the entire file, the court finds
11 the findings and recommendations to be supported by the record and proper analysis.

12 Accordingly, it is HEREBY ORDERED that:

- 13 1. The findings and recommendations issued on August 31, 2021, are adopted;
- 14 2. Defendants’ motion to revoke Plaintiff’s *in forma pauperis* status is granted;
- 15 3. Plaintiff’s motion to voluntarily dismiss the instant action is denied; and
- 16 4. Within twenty (20) days from the date of service of this order, Plaintiff shall pay the
17 \$400.00 filing fee or the action will be dismissed.

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19 IT IS SO ORDERED.

20 Dated: September 28, 2021


21 SENIOR DISTRICT JUDGE
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